5 Rs. COURT FEE INDIA भारत पांच रुपये FIVE RUPEES CANCELLED

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(8)

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition NO. 1435 / 2004

PETITIONER : **Dwarika @ Dukhuram**
S/o Jhaduram Baya Mahar
Aged about 35 years
R/o- Village Hanchalpur
Chowki- Bhakhara, P.S-Kurud,
Dist- Dhamtari (C.G)

P. R. No. 1244804
Presented by Shri H.S. Ahluwalia
dated 19-5-04

Versus

RESPONDENTS

1) State of Chhattisgarh,
Through Secretary, Department of Home
Mantralaya, D.K.S Bhawan,
Shastri Chowk, Raipur (C.G)

2) Collector/District Magistrate,
Dhamtari
Dist- Dhamtari (C.G)

3) Superintendent of Police,
Dhamtari,
Dist- Dhamtari (C.G)

Received copy, 19/5/04
AG to Clerk

WRIT PETITION UNDER ARTICLE ~~226/227~~ 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS, PROHIBITION, CERTIORARI ETC. OR ANY OTHER DIRECTION OR ORDER TO DO JUSTICE IN THE MATTER

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.1435 सन् /04 200

.... विरुद्ध ....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

3.9.2004

Shri Harpreet Singh Ahluwalia, counsel for the petitioner.

Shri Sanjay S. Agrawal, Govt. Advocate for the State/respondents.

The petitioner has preferred this writ petition under Article 227 of the Constitution of India, questioning the correctness, legality and propriety of the order dated 25.11.2003 passed by the District Magistrate, Dhamtari, in Criminal Case No.3/2003, whereby the petitioner has been directed to extern from District: Dhamtari and its adjoining districts viz., Raipur, Mahasamund, Durg, Rajnandgaon, Kanker and Kawardha for a period of one year.

Brief facts leading to filing of this writ petition are that the petitioner is a permanent resident of Village: Hanchalpur, Police Station: Kurud, District: Dhamtari. The Superintendent of Police, Dhamtari made a report on 17.10.2003 against the petitioner before the District Magistrate and based on that report, proceedings under Section 5 (a) & (b) of the Chhattisgarh State Security Act, 1990, (for short 'the Act of 1990') were initiated. After enquiry, the learned District Magistrate reached the conclusion that the petitioner is continuously involved in criminal activities such as selling illicit/illegal liquor since his age of 22 years in Village: Hanchalpur and as many as seven criminal cases were cited to be instituted against the petitioner between 1998 and 2003. Show cause notice was issued to the petitioner on 5.11.2003, reply of the same was submitted by the petitioner, and after recording the evidence, the impugned order was passed by the Collector. By the impugned order, the petitioner was externed from the districts mentioned above for a period of one

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 1435/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

year. An appeal was filed against this order before the State Government and the same was dismissed by order dated 15.3.2004 (Annexure P-1).

I have heard learned counsel for the parties.

Learned counsel for the petitioner submitted that since passing of the impugned order term of nine months has already expired, therefore, in the interest of justice, the term of one year be reduced to nine months.

Sub-section (2) of Section 3 of the Act of 1990 envisages that "A restriction order made under sub-section (1) shall remain in operation for such period as may be specified therein and shall in no case exceed a period of one year from the date of the order." Therefore, the maximum period for which restriction order can be passed as per the above provision is one year and the petitioner has already completed nine months' period. In the circumstances, looking to the facts and circumstances of the case, I am of the opinion that if the period of restriction order is limited up to nine months, the ends of justice would meet.

Therefore, this petition is partly allowed and the term of the impugned order is reduced to nine months instead of one year. Cost is made easy.

In view of this order, M.(W.)P.No.1277/2004 stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

/Padma

[पीछे देखिये